

1 TOURISM, ARTS, AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 2:075. Wildlife rehabilitation permit.

5 RELATES TO: KRS 150.015, 150.021, 150.183, 150.195

6 STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.280

7 NECESSITY, FUNCTION AND CONFORMITY: KRS 150.025(1)(h) authorizes the
8 department to promulgate administrative regulations reasonably necessary to implement
9 or carry out the purposes of Chapter 150~~[regulate wildlife in the Commonwealth]~~. KRS
10 150.280 authorizes the department to promulgate administrative regulations regarding
11 holding protected wildlife. This administrative regulation establishes the guidelines for
12 issuing a permit to a wildlife rehabilitator, maintaining a facility for wildlife rehabilitation,
13 and the operating requirements~~[standards]~~ for wildlife rehabilitators.

14 Section 1. Definitions~~[Definition]~~. (1) "Cervid" means a member of the family Cervidae.

15 (2) "Permit holder" means a wildlife rehabilitation permit holder.

16 (3) "Wildlife rehabilitation" means the process of rescuing, raising, and arranging for
17 veterinary medical care of orphaned, sick, displaced, or injured wildlife with the goal of
18 releasing the wildlife back into its natural habitat.

Section 2. Wildlife Rehabilitation Permits. (1) An applicant for a wildlife rehabilitation permit shall:

(a) Be at least~~[a minimum of]~~ eighteen (18) years of age;

(b) Complete~~[Fill out]~~ an application provided by the department;

(c) Submit~~[Send]~~ the application to the Director of Wildlife at #1 Sportsman's Lane, Frankfort, Kentucky 40601;

(d) Submit proof of successful completion of the course entitled "Basic Wildlife Rehabilitation" offered by the International Wildlife Rehabilitation Council; and

(e) Submit the annual permit fee as established in 301 KAR 3:022~~[a twenty-five (25) dollar fee, which shall be paid each year for renewal of the permit]~~.

(2) An applicant:

(a) May obtain a course-pending~~["course pending"]~~ status for up to one (1) year upon the issuance of the initial permit; and

(b) Shall submit~~[.]~~ proof of course completion ~~[shall be submitted]~~ to the department before the permit shall be renewed.

(3) An applicant's or permit holder's~~[A]~~ facility shall be inspected~~[preinspected]~~ by a conservation officer to document compliance with Section 4 of this administrative regulation before a permit is obtained or renewed.

(4) ~~[An annual permit shall be issued by calendar year beginning in January.]~~

~~(5) Revocation of permits.]~~ A permit shall be revoked and wildlife confiscated if:

(a) An applicant falsifies information on the application;

(b) The permit holder[permittee] fails to comply with the provisions of this administrative regulation; or

(c) The permit holder[permittee] is convicted of a violation of KRS Chapter 150.

~~(5)~~[(6)] An individual whose request for a permit has been denied or whose status has been revoked or suspended may request an administrative hearing pursuant to KRS Chapter 13B.

Section 3. Requirements. (1) A permit holder shall:

(a) Only keep wildlife [~~may remain~~] in a rehabilitation facility for a maximum of 180 days unless specifically exempted by the U.S. Fish and Wildlife Service; and[:]

(b) Submit to the department a completed Kentucky Department of Fish and Wildlife Resources Annual Report Form[(2) A permittee shall produce an annual report on a form] provided by the department.

~~(2)~~[and incorporated by reference specifying the following:

~~(a) The species held;~~

~~(b) The quantity of species held;~~

~~(c) Status of each species;~~

~~(d) Release location;~~

~~(e) Date of release;~~

~~(f) Tag information if required; and~~

(g) If an animal is not releasable as established in subsection (4) of this section~~[classified as nonreleasable]~~ and is held for educational purposes, then the annual report shall document each educational program's~~[program including]~~:

1. Date;

2. Time; and

3. Location ~~[of event]~~.

(3) A permit holder~~[permittee]~~ shall not simultaneously hold captive wildlife ~~[for nonrehabilitation purposes]~~ under the auspices of a captive wildlife~~["captive wildlife"]~~ permit as established~~[issued]~~ in ~~[accordance with]~~ 301 KAR 2:081 or 301 KAR 2:083.

(4) A permit holder~~[permittee]~~ may retain wildlife ~~[classified as nonreleasable]~~ for educational purposes if the animal ~~[meets one (1) or more of the following conditions]~~:

(a) Is a mammal with~~[and has]~~ an amputated leg;

(b) Lacks adequate vision to function in the wild;

(c) Lacks locomotive skills necessary for survival in the wild; or

(d) Has~~[Exhibits]~~ another permanent injury that is reasonably expected to inhibit survival in the wild.

(5) An animal ~~[classified as nonreleasable and]~~ retained for educational purposes pursuant to subsection (4) of this section shall be exhibited in an educational program a minimum of six (6) times per year.

(6) Except as allowed~~[where permitted]~~ under federal regulations, a permit

1 holder~~[permittee]~~ shall not propagate threatened and endangered wildlife.

2 (7) A permit holder~~[The department]~~ shall ~~[be notified]~~ immediately notify the
3 department, in writing, of any federally-threatened or endangered wildlife species
4 delivered, recovered, or retained for rehabilitation.

5 (8) A permit holder~~[permittee]~~ shall not rehabilitate or attempt to rehabilitate any
6 species of terrestrial wildlife not native to Kentucky.

7 (9) A permit holder~~[permittee]~~ shall not rehabilitate or attempt to rehabilitate:

8 (a) A cougar ~~[cougars]~~ (*Felis concolor*);~~;~~

9 (b) A wolf ~~[wolves]~~ (*Canis lupus* or *Canis rufus*);~~;~~

10 (c) An elk (*Cervus elaphus*); or

11 (d) A bear ~~[bears]~~ (*Ursus americanus*).

12 (10) A permit holder~~[permittee]~~ shall not transport wildlife across state lines for
13 rehabilitation, release, or for any other purpose~~[purposes]~~, unless authorized by the
14 commissioner.

15 (11) A permit holder shall release rehabilitated wildlife ~~[shall be released]~~ into the
16 appropriate habitat for that species.

17 (12) A permit holder~~[permittee]~~ shall obtain landowner permission before releasing
18 rehabilitated wildlife.

19 (13) A permit holder~~[Cervids]~~ shall not keep a cervid~~[be held]~~ in a rehabilitation facility
20 for more than 180 days. ~~[After 180 days a rehabilitation permit holder shall apply for a~~

~~noncommercial captive cervid permit as specified in 301 KAR 2:083, if he or she wishes to hold the cervid for more than 180 days.]~~

(14) A wild-born cervid~~[cervids]~~ held in captivity for rehabilitation purposes shall not:

(a) Be housed in the same pen as another captive cervid or ~~[otherwise]~~ housed in direct physical contact with a cervid~~[cervids]~~ that originated in captivity; and

(b) Be housed in a pen that has previously~~[ever]~~ housed cervids that originated in captivity.

~~(15) [A person holding a wildlife rehabilitation permit shall not buy, sell, offer to sell, trade, or barter cervids.]~~

~~(16)]~~ A ~~[person holding a wildlife rehabilitation]~~ permit holder shall not simultaneously hold a ~~[commercial]~~ captive cervid permit.

Section 4. Facilities and Operating Standards. (1) Unless authorized by the Director of Wildlife, a facility shall comply with Minimum Standards for Wildlife Rehabilitation as adopted by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council.

(2) A permit~~[The]~~ holder ~~[of a rehabilitation permit]~~ shall allow a conservation officer to inspect the facilities at any reasonable time.

(3) The conservation officer shall immediately notify the permit holder and the commissioner if the inspection reveals that the facility is not in compliance with the provisions of this administrative regulation.

1 (4) The conservation officer shall make a second inspection after ten (10) days, and the
2 permit shall be revoked and all captive wildlife confiscated immediately if the
3 unsatisfactory conditions have not been corrected. ~~[The Director of Wildlife may authorize~~
4 ~~additional time for compliance and subsequent inspections as necessary.]~~

5 Section 5. Incorporation by Reference. (1) The following material is incorporated by
6 reference:

7 (a) The National Wildlife Rehabilitator's Association and the International Wildlife
8 Rehabilitation Council publication "Minimum Standards for Wildlife Rehabilitation", third
9 edition, 2000;

10 (b) "Kentucky Department of Fish and Wildlife Resources Annual Report Form", 2002
11 edition; and

12 (c) "Application for Wildlife Rehabilitation Permit", 2006 edition.

13 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
14 law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort,
15 Kentucky 40601, Monday through Friday, 8 a.m. until 4:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 24, 2017 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

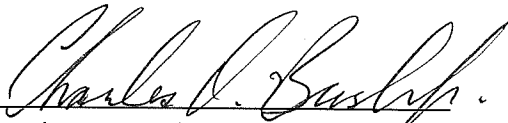
This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through April 30, 2017.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Mark Cramer
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-3400 FAX (502) 564-0506
Email: fwpubliccomments@ky.gov

Approved by the Fish and Wildlife Commission



Charles O. Bush, Jr., Deputy Commissioner, for
Gregory K. Johnson, Commissioner
Department of Fish and Wildlife Resources



Don Parkinson, Secretary
Tourism, Arts and Heritage Cabinet

Date: 3/9/17

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 2:075. Wildlife rehabilitation permit.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for persons rehabilitating wildlife in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide reasonable standards for those who rehabilitate wildlife in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of Chapter 150. KRS 150.280 authorizes the department to promulgate administrative regulations regarding holding protected wildlife.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the minimum requirements for wildlife rehabilitators in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment removes the ability of a permit holder to keep a cervid longer than 180 days by obtaining a noncommercial captive wildlife permit, as this permit was recently discontinued.

(b) The necessity of the amendment to this administrative regulation: See 1 (b) above.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently, there are 50 wildlife rehabilitation permit holders in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Wildlife rehabilitators who possess white-tailed deer will need to release the deer into within 180 days of obtaining the animals. They will no longer be able to purchase a noncommercial captive wildlife permit to continue holding the deer indefinitely.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not change any costs to the entities identified in 3.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No benefits will accrue to the entities in question (3).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will not be an additional cost to the agency to implement this administrative regulation initially.

(b) On a continuing basis: There will not be an additional cost to the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No. All permit holders are subject to the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 2:075. Wildlife rehabilitation permit.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1)(h) and 150.280.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional funding for state or local government during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional funding for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):
Other Explanation: